

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA)
v.) CASE NO.: 3:20-CR-21
ANMING HU) JUDGES VARLAN/POPLIN
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**DEFENDANT ANMING HU'S RESPONSE TO THE GOVERNMENT'S MOTION FOR
A PRETRIAL CONFERENCE PURSUANT TO 18 USC APP. III CLASSIFIED
INFORMATION PROCEDURES ACT**

Dr. Anming Hu, Defendant, is unaware of any classified information that may arise in connection with this case. Dr. Hu does not intend on introducing any classified information in his case.

By the Government invoking the Classified Information Procedures Act 18, U.S.C. App. III (CIPA), the Government must be signaling they intend to introduce classified information into the case, or try to restrict its entry into the case. Until the Government gives Dr. Hu a summary of the evidence they are not disclosing, Dr. Hu has no way to test the validity of the Government's proposed use of the Act.

Dr. Hu requests the Court be concerned with the fair administration of justice and the protection of his due process rights to introduce evidence in this case. Dr. Hu's rights under *Brady v. Maryland* must be protected and the Government has an obligation to reveal all exculpatory evidence to Dr. Hu.

Dr. Hu objects to any procedure invoked by the Government that would tend to hide or disallow any exculpatory evidence, or evidence that is relevant and helpful to Dr. Hu. He is

entitled to his defense unhindered by procedures invoked by the Government that do not truly affect national security.

Dr. Hu also has a right to evidence that “is relevant and helpful to the defense.” And, when the government invokes the Classified Information Procedures Act, the Court has a duty to determine whether classified evidence should be disclosed. *United States v. Amawi*, 695 F. 3d 457, 470 (6th Cir. 2012)

It is anticipated through this procedure, the Court will be asked to view evidence in camera to determine whether the evidence should be turned over to the Defense or kept away from the Defense, due to some claim of national security.

Dr. Hu objects to the Government invoking the Classified Information Procedures Act for the purpose of protecting anything other than the actual national security of the United States of America.

Any claim that the government needs to protect evidence by excluding it from Dr. Hu’s defense is a serious legal matter that could deprive Dr. Hu of a fair trial.

Therefore, as this process develops, Dr. Hu requests this Honorable Court be aware that FBI agents and Justice department officials at the highest levels of our Government have had their motives questioned when it comes to “National Security” and no government official should be above due process and the fair administration of our government.

“The very word "secrecy" is repugnant in a free and open society; and we are as a people inherently and historically opposed to secret societies, to secret oaths and to secret proceedings. We decided long ago that the dangers of excessive and unwarranted concealment of pertinent facts far outweighed the dangers which are cited to justify it.”

(President John F. Kennedy, April 27, 1961)

Dr Hu does not accuse anyone in this case of violating the proper use of the

Classified Information Procedures Act, however, this act, like any other is subject to misuse, or misunderstanding and, Dr. Hu moves this Honorable Court to take nothing for granted and, while moving through this process, keep an open and objective eye towards the fair administration of Justice.

Respectfully submitted this 18th day of March, 2020

s/ A. Philip Lomonaco
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CERTIFICATE OF SERVICE

I hereby certify that on March 18, 2020 a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular United States Mail, postage prepaid. Parties may access this filing through the Court's electronic filing system.

By:/s/ A. Philip Lomonaco